

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

JEREMIAH HUNLEY,)	
)	
Plaintiff,)	
)	No. 3:10-CV-455
v.)	(COLLIER/GUYTON)
)	
GLENCORE LTD, INC., and)	
EAST TENNESSEE ZINC CO., LLC,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and the Standing Order 13-02. Now before the Court is Defendant Glencore's Motion to Compel [Doc. 196], which, among other things, moves the Court to compel Ms. Barbara Radford to appear for depositions.

On July 10, 2013, the Plaintiff filed the Declaration of Barbara Radford, [Doc. 146-7], in support of its position that the Court has diversity jurisdiction over this case. On August 5, 2013, Ms. Radford was served with a subpoena directing that she appear at the office of Defendant Glencore's attorney on August 21, 2013, and provide deposition testimony. [Doc. 204]. On August 20, 2013, Ms. Radford contacted counsel for Glencore and stated that she could not attend for health reasons. Ms. Radford did not appear for her deposition on August 21, 2013. The instant Motion to Compel followed, and at oral arguments, counsel for Defendant Glencore stated that the deposition has not been rescheduled.

A non-party may be compelled to attend a deposition under Rule 45 of the Federal Rules of Civil Procedure. See Fed. R. Civ. P. 30(a)(1). The Court finds that Defendant Glencore

properly served Ms. Radford with a subpoena to testify in a civil action. The Court finds Ms. Radford stated poor health made her unable to attend her deposition on August 21, 2013. Ms. Radford and Glencore's counsel have not made arrangements for her deposition to be taken at another time or location. The Court does not necessarily fault Ms. Radford or Glencore's counsel for this situation. However, neither Ms. Radford nor any counsel on her behalf attended the hearing before the undersigned to offer an alternative date, time, or location for the deposition. Accordingly, the Court finds that the Motion to Compel is well-taken with regard to Ms. Radford, and it is **GRANTED**.

Ms. Barbara Radford is **ORDERED** to appear at the office of Baker, Donelson, Bearman, Caldwell & Berkowitz, 265 Brookview Centre Way, Suite 600, Knoxville, TN, 37919, at **9:00 a.m. on September 25, 2013**, to offer testimony and produce documents as stated in the subpoena previously served upon her. Ms. Radford's failure to attend may result in imposition of appropriate sanctions, which may include Ms. Radford being held in contempt of court. See Fed. R. Civ. P. 37(b).

The Clerk of Court **SHALL SERVE** a copy of this Memorandum and Order and a copy of the subpoena [Doc. 204] on Ms. Radford, via certified mail with signature confirmation. If Defendant Glencore has not yet tendered fees for one day's attendance and mileage to Ms. Radford, it **SHALL TENDER** the fees and mileage immediately.

IT IS SO ORDERED.

ENTER:

/s H. Bruce Guyton
United States Magistrate Judge